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HB 2271 RELATING TO THE SHORELINE

Statement for
House Committees on
Ocean and Marine Resources
and
Planning, Energy, and Environmental Protection
Public Hearing - February 12, 1988

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HB 2271 would amend HRS Section 205A-44 by including dead coral or coral rubble along with the other beach or marine deposits whose removal is prohibited within the shoreline area; removes the prohibition for taking various marine deposits seaward of the shoreline with certain exceptions; sets limits on the amount of marine materials taken for personal use; allows for stricter limitations by county ordinance on marine deposits taken; deletes the limitation on public beaches where sand replenishment can be permitted; permits beach cleaning for state or county maintenance purposes; requires that sand removed for cleaning or maintenance purposes be placed on adjacent beaches unless it will result in turbidity; stipulating that no Environmental Impact Statement will be required for maintenance or cleaning activities; prohibits mining of marine deposits seaward from the shoreline except by permit under section 183-41, stipulating that no such mining or taking permit be issued for Hakipu'u sandbar; and deletes HRS Section 7-3.

Our statement on this bill does not represent an institutional position of the University of Hawaii.

Existing statutes HRS 205A-44(a) prohibits the taking of coral from the shoreline area whether dead or alive. We believe that a similar prohibition exists for coral rubble as the statutes clearly state that "other beach or marine deposits" are similarly protected and "coral rubble" would surely fall within this definition. Therefore, we see no need for the addition of "coral rubble". Given the ongoing interest in

protecting live coral particularly in the shoreline area, the limitation of the prohibition to only dead coral does not seem appropriate.

The deletion of the limited seaward prohibition in this paragraph will limit the application of paragraph (a) to the shoreline area. This will create a problem as the provisions of paragraph (2) will be incorrectly limited to shoreline areas. We are sure that this is not the intent of the legislature. The rationale for insertion of a broader seaward prohibition on mining of marine deposits into HRS 171, along with the permit and Hakipu'u exception provisions is unclear. It would seem more appropriate to add this paragraph to 205A-44.

1. We understand from previous years' testimony on this issue, that the limitation proposed in paragraph (1) results from present enforcement problems associated with the determination of what is "reasonable" and the removal of truck loads of sand by individuals, "for personal, non-commercial use." Because of the need to protect the beach resources of the state. The limitations for taking marine deposits to one gallon per person per day and provision for county-designated stricter provisions is reasonable.

2. The proposed amendment deleting the present restrictions on the public beaches where beach replenishment with offshore sand recovery would be permitted is highly appropriate. Under the existing statutes, offshore sand deposits, seaward of the littoral cell, but within 1000 feet seaward of the shoreline area and 30 feet or less in depth, are lost to deep water and cannot be recovered for replenishment of public beaches except at Hilo Bay, Waikiki, Ala Moana and Kailua beaches. There are many other public beaches in the state that could benefit by the use of offshore sand deposits that would otherwise be lost to deep water.

The requirement for an Environmental Impact Statement (page 2, line 1), prior to mining or taking of sand by the state or county for replenishment of sand on public beaches is inconsistent with the intent of Chapter 343. What is needed is an Environmental Assessment. If after environmental assessment, a significant impact is determined under the criteria established by Chapter 343, an Environmental Impact Statement would be required. It is environmentally unnecessary, and potentially costly to make a blanket requirement for an Environmental Impact Statement without benefit of the assessment procedure already established under Chapter 343.

3. We concur with the intent of the provisions indicated in paragraph (3), however, we hasten to call your attention to the exemption provisions under HRS 343-6(7) whereby "specific types of actions, because they will probably have minimal or no significant effects on the environment are declared exempt from the preparation of an assessment."

Therefore the statutory exemption (page 3, lines 2-4) from an EIS under chapter 343 is unnecessary and should be deleted.

Section 2(171). As cited in our comments on paragraph (1), the provisions that would be established by this amendment seem more appropriate for Section 205A.

Section 3. Deletion of HRS 7-3 is appropriate as the provisions are more fully covered under 205a-44.

In summary, intent of the amendments proposed by HB 2271 should allow for more environmentally and administratively responsible beach management. We strongly support the passage of the bill.